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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.4693 of 2000

CORAM: Hon'ble Shri S.R. Nayak, CJ
& Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Petitioner : Thakur Mohan Singh, Aged 71 years, S/o Late Govind Singh Thakur, Retired Driver, Balod, Dev. Office, Balod, Distt. DURG (M.P.)

Versus

Respondents:
: 1. The State Government of Chhattisgarh, Through : The Secretary, Ministry of Development, D.K.S.Bhawan, Raipur (C.G.)
: 2. The Accountant General of Chhattisgarh, Pandri, Raipur (C.G.)
: 3. The Commissioner, Raipur Division, Raipur (M.P.)
: 4. The Collector, Durg (M.P.)
: 5. The Block Development Officer, Balod, Distt. Durg (M.P.)

Shri Ajay Shrivastava, Counsel for the petitioner.

Shri Utkarsh Verma, P.L. assisted Shri V.V.S.Murthy, Dy. Advocate General for respondents No.1, 3, 4 & 5.

ORAL ORDER
(Passed on 4th January 2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

1. The petitioner herein having served as driver under the State and putting in 20 years 10 days of service, retired on 31.01.1986 on attaining the age of superannuation. His pension was not properly fixed. Aggrieved therewith, the petitioner filed O.A.No.01/1999 before the M. P. Administrative Tribunal (for short 'the Tribunal') seeking mandamus to the Department to re-fix his pension taking into

account 20 years 10 days of service put in by the petitioner and to pay interest at the rate of 18% per annum on the difference. The O.A. was contested by the Department. The Tribunal having appreciated the rival contentions and materials laid before it, upheld the claim of the petitioner for re-fixation of his pension. However, the Tribunal, on the ground that there was a delay of 8 years on the part of the petitioner in approaching the Court, directed that on re-fixation of pension, the re-fixed pension would be paid to the petitioner only prospectively and he is not entitled to recover arrears of pension for the past period. Being aggrieved by that part of the direction, the petitioner has filed this writ petition under Articles 227 of the Constitution of India.

2. Having heard learned counsel for the parties, we are of the considered opinion that the Tribunal is not justified in denying the arrears of pension to the petitioner with regard to the past period. The State which is bound by Article 14 postulates cannot be permitted to make unlawful gain out of its own wrong. The Department having wrongly computed pension payable to the petitioner and having paid lesser pension than what the petitioner was entitled to cannot now turn round and say that though it made unlawful gain out of its own wrong it is not be obliged to pay arrears of pension to the petitioner with regard to the past period. The impugned part of the order of the Tribunal could not be sustained in terms of law as well as in terms of equity.

3. In the result, we allow the writ petition and direct that after re-fixation of the pension of the petitioner in terms of the judgment of the Tribunal, the respondents shall pay the arrears of pension with regard to the past period also with interest @ 10% per annum till payment.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge